

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 12.20 of the Lincoln Municipal Code by
2 amending Sections 12.20.010, 12.20.030, 12.20.040, 12.20.050, 12.20.060, 12.20.070 and
3 adding new sections numbered 12.20.021 and 12.20.035 to expand the allowable types of
4 ornamental landscape plantings within the sidewalk space to include street trees, shrubs, turf
5 grass, annual and perennial flowering plants, ornamental grasses and ground covers, which
6 plantings shall be maintained by the adjoining property owner or occupant to a maximum
7 height of 30 inches between the curb and sidewalk, or 12 feet behind the curb where no
8 sidewalk exists, and so as not to extend over curbs, sidewalks, alleys and driveways; and
9 repealing Sections 12.20.010, 12.20.030, 12.20.040, 12.20.050, 12.20.060, and 12.20.070
10 of the Lincoln Municipal Code as hitherto existing.

11 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

12 Section 1. That Section 12.20.010 of the Lincoln Municipal Code be amended
13 to read as follows:

14 **12.20.010 Statement of Intent.**

15 The selection, planting, maintenance, and removal of trees, ~~shrubs, and hedges~~ and
16 ornamental plantings along public ways within the City of Lincoln substantially affect such
17 matters as pedestrian and vehicle safety, the location and maintenance of utility services, tree
18 maintenance costs, the incidence of tree diseases, and the general appearance of the cityscape;
19 therefore, it is hereby found and determined that such selection, planting, maintenance, and

1 removal are matters of city-wide concern over which the city must exercise the control set
2 forth in this chapter.

3 Section 2. That Chapter 12.20 of the Lincoln Municipal Code be amended by
4 adding a new section numbered 12.20.021 to read as follows:

5 **12.20.021 Landscape Plantings within the Sidewalk Space.**

6 The space between the lot line and existing or projected curb line on each side of every
7 street in the city (hereafter known as the sidewalk space) shall be used only for the location
8 of approved street trees in accordance with Section 12.20.020, turf grass, shrubs, perennial
9 and annual flowering plants, ornamental grasses, and ground covers. Vegetable gardens,
10 vegetable plants or fruit plants shall not be planted or maintained within the sidewalk space.
11 Shredded wood mulch may be placed around street trees and landscape plantings within the
12 sidewalk space.

13 Section 3. That Section 12.20.030 of the Lincoln Municipal Code be amended
14 to read as follows:

15 **12.20.030 Maintenance of Street Trees, ~~Shrubs, and Hedges Along Public Ways.~~**

16 Except as may otherwise be provided by the City Council for council-created street tree
17 planting districts, the trimming, spraying, removing, and destroying of all street trees now
18 existing, the selecting, planting, trimming, spraying, removing, and destroying of all trees
19 hereafter planted, ~~and the selecting and planting of all shrubs and hedges hereafter planted,~~
20 in or upon any street, parkway, sidewalk space, or other public way within the city, shall be
21 done by and at the expense of the city and at its discretion and by no other person; provided,
22 ~~however, that the owner or occupant of the property abutting such public property shall be~~

1 ~~responsible for the routine care of such public property, such as watering and the raking and~~
2 ~~disposing of leaves, twigs, and other debris, and the trimming and pruning of shrubs and~~
3 ~~hedges; and provided further,~~ the Director may, in accordance with the provisions of this
4 chapter, issue a permit to any applicant therefor, allowing such person to plant, remove, or
5 destroy any such tree, ~~or plant any such shrub or hedge.~~

6 Section 4. That Chapter 12.20 of the Lincoln Municipal Code be amended by
7 adding a new section numbered 12.20.035 to read as follows:

8 **12.20.035 Maintenance of Landscape Plantings Within the Sidewalk Space.**

9 The owner or occupant of the property abutting the sidewalk space shall be responsible
10 for the routine care of such landscape plantings within the sidewalk space, including watering,
11 mowing, raking and disposing of leaves, twigs, and other debris, and the trimming and
12 pruning of shrubs and other ornamental landscape plantings.

13 Section 5. That Section 12.20.040 of the Lincoln Municipal Code be amended
14 to read as follows:

15 **12.20.040 Application for Permit.**

16 Any person desiring to plant, remove, or destroy any street tree, ~~or to plant any shrub~~
17 ~~or hedge,~~ in or upon any street, parkway, sidewalk space, or other public way within the city
18 shall first make a written application to the Director so to do, upon forms furnished by the city.
19 Such application shall set forth the name and address of the applicant, the name and address
20 of the person, firm, or corporation doing the work, and such other information as the Director
21 may require. At the time of making such application, the applicant shall agree in writing to
22 save the city harmless and to protect the city and the public at all times in connection with

1 such work under such permit, and to do such work in conformance with specifications set
2 forth by the city. Also at the time of making such application, the applicant shall furnish the
3 Director with the written consent to the issuance of such permit from the owner of the
4 property abutting the public property upon which such work is proposed to be done.

5 Section 6. That Section 12.20.050 of the Lincoln Municipal Code be amended
6 to read as follows:

7 **12.20.050 Issuance of Permit; Requirements Pertaining to Planting, Maintaining,**
8 **Removal, and Destruction.**

9 After inspection of the location in question, if in his opinion it is desirable that such
10 street tree be planted, removed, or destroyed, ~~or such shrub or hedge be planted, as the case~~
11 ~~may be,~~ the Director shall issue a permit therefor. Such permit shall set forth the name and
12 address of the owner of the property abutting the public property upon which such work is to
13 be done; the name and address of the person who will perform such work; and the location
14 at which such work will be performed. The permittee shall furnish any such street tree, ~~shrub,~~
15 ~~or hedge~~ to be planted. After planting, such street tree, ~~shrub,~~ or ~~hedge~~ shall be and remain
16 the property of the city, and subject to the provisions of this chapter. The cost of any such
17 street tree, ~~shrub,~~ or ~~hedge,~~ and the cost of all such permitted planting, removing, and
18 destroying shall be and remain the permittee's. Such permit shall be subject to the following
19 conditions, which shall be made a part of said permit, and failure to comply therewith shall
20 constitute a violation of this chapter:

21 (a) Any street tree, ~~shrub,~~ or ~~hedge~~ to be planted shall be planted at the location
22 designated by the Director ~~after he has requested written recommendations pertaining thereto~~
23 ~~from the Directors of the city's Departments of Public Works and Utilities and Planning.~~ All

1 trees when planted shall be not less than one inch in diameter at one foot above the ground
2 surface. No whips shall be planted;

3 ~~(b) All shrubs and hedges shall be kept trimmed at least three feet back from all~~
4 ~~curbs, sidewalks, driveways, or alleys; and the same shall at all times be kept trimmed to a~~
5 ~~height not greater than thirty inches above the top of the curb unless the Director, for other~~
6 ~~than corner lots, finds that a greater height would not constitute a hazard to pedestrian or~~
7 ~~vehicular traffic;~~

8 ~~(c) Whenever any shrub or hedge is removed from any street, parkway, sidewalk~~
9 ~~space, or other public way, the consent of the owner of the abutting property to remove such~~
10 ~~shrub or hedge shall first be obtained, except in case where removal is ordered or done by the~~
11 ~~city;~~

12 ~~(d) (b) All shrubs and hedges being removed or destroyed shall be cut flush with the~~
13 ~~ground surface so that a lawnmower can pass over the ground at any time. When a street tree~~
14 ~~is being removed or destroyed, the stump shall also be removed. All removed trees, shrubs,~~
15 ~~and hedges, including limbs and debris therefrom, shall be removed from the street, parkway,~~
16 ~~sidewalk space, or other public way within forty-eight hours after being cut, and the ground~~
17 ~~shall be raked clean of all chips, branches, and debris;~~

18 ~~(e) (c) When a street tree is being felled, it shall be felled away from the roadway or~~
19 ~~parallel with the roadway, when possible, and the sidewalk and street shall be guarded as to~~
20 ~~protect pedestrians and vehicles thereon;~~

1 ~~(f)~~ (d) All damage to curbs, sidewalks, and other public property occurring in the
2 performance of any such work shall be promptly and properly repaired at the permittee's
3 expense.

4 Section 7. That Section 12.20.060 of the Lincoln Municipal Code be amended
5 to read as follows:

6 **12.20.060 Work Ordered or Done by the City.**

7 No permit shall be required for any street tree, shrub, or ~~hedge~~ ornamental landscape
8 planting, removing, or destroying ordered or done by the city; however, all such work shall
9 be done in conformance with the requirements of subparagraphs (a), (b), (c) and (d), ~~(e), and~~
10 ~~(f)~~ of Section 12.20.050 of this chapter. Further, the city may trim all trees in or upon any
11 street, parkway, sidewalk space, or other public way so that there is a clearance of ten feet
12 over sidewalks and fourteen feet over the portion of public streets and alleys used for vehicular
13 traffic.

14 Section 8. That Section 12.20.070 of the Lincoln Municipal Code be amended
15 to read as follows:

16 **12.20.070 ~~Shrubs and Hedges; Height and Spread Limitations for Landscape Plantings~~**
17 **Within the Sidewalk Space; Special Assessment for Failure to Maintain.**

18 Shrubs, perennial and annual flowering plants, ornamental grasses, and ground covers
19 planted within the sidewalk space, or abutting a sidewalk, shall be maintained so that they do
20 not extend over curbs, sidewalks, driveways, or alleys. Such landscape plants located between
21 the curb and sidewalk, or within twelve feet of the curb if no sidewalk exists, shall be
22 maintained to have a maximum height of no more than thirty inches above the height of the
23 adjoining curb. Landscape plants located behind the sidewalk, or beyond twelve feet from

1 the curb if no sidewalk exists, shall be maintained to have a maximum height in conformance
2 with the Lincoln Municipal Code. Upon the failure, neglect, or refusal of an owner of the
3 property abutting the sidewalk space upon which ~~shrubs or hedges~~ landscape plants have
4 been planted to maintain such ~~shrubs or hedges~~ plants in accordance with the requirements
5 of ~~subparagraph (b) of Section 12.20.050 of this chapter, whether or not the same have been~~
6 ~~planted pursuant to the provisions of this chapter~~ this section, after at least five days' notice,
7 by publication at least once in a daily newspaper of general circulation in the City of Lincoln
8 and by postage prepaid certified mail has been given such person of such failure, neglect, or
9 refusal, the city may treat such ~~shrubs or hedges~~ plants or growth thereof as weeds or
10 worthless vegetation and forthwith trim, remove, or destroy the same. The Director shall
11 annually prepare and file with the City Clerk a report of all such work, together with the cost
12 thereof, done by his/her Department during the preceding twelve months. Upon receipt of
13 such report, the City Clerk shall present it to the City Council for consideration. The City
14 Council shall fix a time, date, and place for hearing said report, and any protests or objections
15 thereto. The City Clerk shall cause notice of said hearing to be published once in a newspaper
16 of general circulation in the city, and served by certified mail, postage prepaid, addressed to
17 the owner of such abutting property as his/her name and address appears on the last equalized
18 assessment roll of Lancaster County, Nebraska, if such so appears, or as known to the City
19 Clerk. Such notice shall be given at least ten days prior to the date set for hearing and shall
20 specify the day, hour, and place the Council will hear and pass upon the Director's report,
21 together with any objection or protests which may be made thereto, and assess such abutting
22 property with such cost. Such assessment shall be certified by the City Clerk to the

1 appropriate taxing official for the city, and shall be collected in the manner provided by law
2 for the collection of general real estate taxes. Such assessment shall be a lien upon such
3 property from the date of assessment, shall become delinquent December 1 after the date of
4 assessment, and shall draw interest from said date until paid at the same rate as provided by
5 law for delinquent general real estate taxes.

6 Section 9. That Sections 12.20.010, 12.20.030, 12.20.040, 12.20.050, 12.20.060,
7 and 12.20.070 of the Lincoln Municipal Code as hitherto existing be and the same are hereby
8 repealed.

9 Section 10. That this ordinance shall take effect and be in force from and after its
10 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2003:

Mayor